

IN RE: LITHIUM ION BATTERIES  
ANTITRUST LITIGATION**This Order Relates to:****ALL INDIRECT PURCHASER ACTIONS****Case No.: 13-MD-2420 YGR****ORDER DIRECTING FURTHER SUBMISSION IN  
SUPPORT OF PENDING MOTIONS FOR FINAL  
APPROVAL AND FOR ATTORNEYS' FEES AND  
EXPENSES****DKT. NO. 1841, 1921**

On October 3, 2017, the Court held a hearing on the pending motions for final approval of class action settlement and motion for attorneys' fees, and heard the arguments of counsel for the indirect purchaser plaintiffs (IPP) and from counsel for objector Michael Frank Bednarz. The Court is inclined to grant the motion for final approval, but requests some additional information to aid the Court in its assessment of the settlement and request for attorneys' fees. IPP counsel is directed to provide further information as set forth below by **October 16, 2017**. The information should be provided in a summary chart format, preferably similar to that shown in Appendix A hereto from William B. Rubenstein, *The Fairness Hearing: Adversarial and Regulatory Approaches*, 53 UCLA L. REV. 1435, 1460 (2006).<sup>1</sup>

1. Provide the following information for several (ideally, ten) comparable antitrust indirect purchaser class action settlements, either within or outside this district:

- Total settlement amount;
- Total amount of claims paid, expressed in dollars and as a percentage of the total settlement amount;
- The number of class members who received notice ;
- The number of actual claims, expressed as a total number and as a percentage of the number who received notice;

<sup>1</sup> Counsel are referred to further discussion on these issues in Nicholas M. Pace and William Rubenstein, "Shedding Light on Outcomes in Class Actions," in CONFIDENTIALITY, TRANSPARENCY, AND THE U.S. CIVIL JUSTICE SYSTEM, Ch. 2 (Joseph W. Doherty, Robert T. Reville, and Laura Zakaras, eds., Oxford University Press, 2008).

1       • The number of opt-outs, expressed as a total number and as a percentage of the number who  
2        received notice;

3       • The attorney fees awarded, expressed as a total dollar figure, a percentage of the total  
4        settlement amount, and a percentage of the funds distributed to class members;

5       • The attorney costs and expenses awarded, expressed as a total dollar figure, a percentage of  
6        the total settlement amount, and a percentage of the funds distributed to class members;

7       • The total class administration costs, expressed as a total dollar figure and a percentage of  
8        the total settlement amount; and

9       • The residual funds, if any, remaining, expressed as a total dollar figure and a percentage of  
10       the total settlement amount.

11       2. In addition, for the pending motions, provide the estimated information for each of  
12       the above categories, based on the information currently available to counsel.

13       **IT IS SO ORDERED.**

14       Dated: October 6, 2017

  
YVONNE GONZALEZ ROGERS  
UNITED STATES DISTRICT COURT JUDGE

## APPENDIX A

<b>Preapproval Notice</b>	
<b>In re Megasoft Antitrust Case</b>	
<i>All figures are best estimates as of July 1, 2006</i>	
<b>Settlement</b>	<b>% Total Settlement</b>
<b>\$50 million</b>	<b>100%</b>
<b>Plaintiff fund \$38.5 million</b>	<b>77%</b>
<b>Expected claims \$4.7 million</b>	<b>9%</b>
Class members 500,000	
Projected claims 60,000 (12%)	
<b>Settlement per class member \$79*</b>	
<b>Expected residual \$33.8 million</b>	<b>68%</b>
Cy pres – Public schools \$22.5 million	
Reversion – Megasoft \$11.3 million	
<b>Attorney fees requested \$10 million</b>	<b>20%</b>
<b>Lodestar \$4.0 million</b>	
Hours 10,000	
Melded billing rate \$400/hr	
<b>Multiplier 2.5</b>	
<b>Attorney costs \$0.5 million</b>	<b>1%</b>
<b>Administrative costs \$1 million</b>	<b>2%</b>
<p>The median award for class members filing a claim is estimated to be <b>\$79</b>. Instructions for filing your claim appear elsewhere in this settlement notice.</p>	
<small>* Settlement per class member is based on median damage. Actual individual settlements may be higher or lower depending on factual circumstances.</small>	
<small>This settlement received an 'A' grade from the Class Action Settlement Rating Association.</small>	

  

<b>Postclaim Filing Audit</b>	
<b>In re Megasoft Antitrust Case</b>	
<i>All figures are actual amounts as of June 30, 2007</i>	
<b>Settlement</b>	<b>% Total Settlement</b>
<b>\$50 million</b>	<b>100%</b>
<b>Claims paid \$5.9 million</b>	<b>12%</b>
Class members sent notice 500,000	
Actual claims 74,700 (15%)	
Opt-outs 2,000 (0.4%)	
Median recovery per claimant \$79	
<b>Residual \$34.3 million</b>	<b>69%</b>
Cy pres distribution \$22.9 million	
Reversion \$11.4 million	
<b>Attorney fees awarded \$8.3 million</b>	<b>17%</b>
Portion of distributed fund 22%	
<b>Attorney costs \$0.5 million</b>	<b>1%</b>
<b>Administrative costs \$1 million</b>	<b>2%</b>

FIGURE 2.1 Model Simplified Notices (from Rubenstein 2006)